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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

ROBERT L. NALDUCCI,	)	Case No. C06-7702 SBA
	)	<b>E-FILING CASE</b>
Plaintiff,	)	
	)	<b>STIPULATION AND ORDER TO</b>
v.	)	<b>CONTINUE DATES</b>
	)	
PETE GEREN, Secretary of the Army;	)	Trial Date: May 18, 2009
	)	Courtroom: 3, 3rd Floor
Defendant.	)	
	)	
	)	
	)	

The parties stipulate to continue the trial and pre-trial dates in this employment discrimination set for trial on May 18, 2009. The reasons for the continuance are set forth below.

On March 31, 2009, the parties met and conferred regarding trial witnesses. From this conference, it became apparent that plaintiff intended to call three witnesses who had not previously been disclosed in initial disclosures. Plaintiff agreed to make all three witnesses available for deposition. The continuance of the pre-trial and trial dates would facilitate this process. Should the continuance not be granted, the Federal Defendant maintains it would need to move in limine to exclude these three witnesses and the rebuttal witnesses from trial.

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Second, the Federal Defendant's motion for summary judgment was scheduled for hearing on April 7, 2009. The Court continued the hearing date to April 21, 2009, the same date that the parties' pre-trial filings are due. Should the Federal Defendant's motion be granted, all pre-trial filings would be obviated. If the motion were granted in part, the scope of the pre-trial filings would be affected. The brief continuance would allow the pre-trial filings to be more meaningful, as they would have the benefit of the Court's order.

Third, the parties are scheduled for a further settlement conference with Judge Larson on April 22, 2009. The continuance would allow the parties to make one final, good faith effort to settle without incurring the additional attorneys' fees associated with the pre-trial filings.

In light of the above, the parties request that all pre-trial filings be due on **May 22, 2009**, and that the pre-trial conference be continued to **June 9, 2009**. The parties further request that the trial date be continued to **July 6, 2009**, the next available date for the Court and all parties.

Respectfully submitted,

JOSEPH P. RUSSONIELLO

United States Attorney

Dated: April 10, 2009

\_\_\_\_\_/s/  
ANDREW Y.S. CHENG  
MELISSA K. BROWN  
Assistant United States Attorneys

Dated: April 10, 2009

\_\_\_\_\_/s/  
DANIEL BARTLEY  
JAMES RUSH  
Attorneys for Plaintiff Robert Nalducci

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**ORDER**

Plaintiff's witnesses at trial shall be limited to the following people: Robert Nalducci, Shirley Russell, Carl Rodd, Malcolm Seisay, Richard Gallegos, Dr. James Gardner (Mr. Nalducci's treating physician), Dr. Lennart Suther, and Mrs. Susan Lynn Nalducci.

Plaintiff reserves the right to call as rebuttal witnesses only the following people – Reno Nalducci (Mr. Nalducci's son), Cari Destein, (Mr. Nalducci's daughter), and Kenneth Bryant and Donald McConlogue (two former co-workers at Mare Island) subject to this Court's determination that such testimony is relevant and not redundant.

Plaintiff reserves the right to supplement this list if a witness materializes that neither party is currently aware of.

The depositions of Dr. Gardner, Dr. Suther, and Mrs. Nalducci shall be completed no later than May 31, 2009, and factual discovery is re-opened only for those three depositions. Plaintiff shall produce by April 24, 2009 all medical records from Dr. Gardner and Dr. Suther to defendant. No other factual discovery shall be permitted.

The Court, having considered the stipulation of the parties, hereby orders that pre-trial conference be continued from May 12, 2009 to **June 30, 2009**. All pre-trial documents will be due on **June 9, 2009**. Motions in limine and evidentiary objections will be due on **June 16, 2009**. Responses to the motions in limine and evidentiary objections will be due on **June 23, 2009**. The trial date will be continued from May 18, 2009 to **July 6, 2009**.

IT IS SO ORDERED.

4/15/09

  
JUDGE SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE